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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,408	12/28/2000	Nicholas Sauriol	56130.000067	5257
7590	10/25/2005			EXAMINER
James G. Gatto, Esq. Hunton & Williams Suite 1200 1900 K Street, N.W. Washington, DC 20006			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER
			3621	
DATE MAILED: 10/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/749,408	SAURIOL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Pierre E. Elisca	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

1. This office action is in response to Applicant's RCE, filed on 10/04/2005.
2. Claims 1-12 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 3, 4, 5, 7 and 8-12 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Foster in view of Ellis US 2002/0095374 A1.**

As per claims 1, 3, 4, 5, 7 and 8-12 Foster substantially discloses a financial transaction system such that Applicants' step of providing a secured network that stores consumer data and approved vendor information, Applicants' step of receiving transaction information at the secured network, and Applicants' step of processing the transaction information to determine whether the transaction information conforms with the stored consumer data and approved vendor information reads on col 8, lines 19-28, and applicants' step of delivering the stored consumer data to the vendor if the transaction information is determined to conform with the stored consumer data and approved

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vendor information reads on the message to the merchant, from the system, of the cardholder's shipping address, col 8, lines 47-50.

Foster fails to explicitly disclose Applicant's newly added limitation wherein said receipt of the stored consumer data by the vendor enables the vendor to receive payment for the e-commerce transaction. However, Ellis discloses a fulfillment resulting in providing the consumer with an activation code to enable a good or activate a service. The activation code may be indicated the receipt provided to the consumer. The fulfillment may include notifying the vendor that appropriate payment has been received based on the consumer receipt. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the financial transaction of Foster by including the limitation detailed above as taught by Ellis because this would confirm identity of the consumer or to otherwise reduce unauthorized use.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 2 and 6 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Foster in view of Weber et al (U.S. Pat. No. 6,178,409).

Although Foster does not explicitly disclose the use of a VPN, Weber discloses a virtual private network between a gateway and a host processor that is established to expedite host communication (see., col 91, lines 50-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of foster to utilize a virtual private network as VPN is known to provide greater security when performing transactions.

#### RESPONSE TO ARGUMENTS

7. Applicant's arguments have been fully considered but they are moot in view of new ground (s) of rejection.

#### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

**Primary Patent Examiner**

**October 21, 2005**